

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RIGOBERTO LOPEZ-AYALA,

Defendant.

No. CR07-2005

**ORDER DENYING SECOND
MOTION TO TERMINATE
PROBATION**

This matter comes before the Court on the Motion to Terminate or Modify Probation (docket number 12) filed by the Defendant on February 14, 2008, and the Response (docket number 13) filed by the Government on February 21, 2008.

On February 21, 2007, Defendant was placed on probation for a period of two years following his plea of guilty to engaging in, and aiding and abetting the engagement in, a pattern and practice of hiring unauthorized aliens. *See* Judgment, docket number 8. On September 14, 2007, Defendant filed his first Motion requesting that his probation be terminated. *See* Motion to Terminate or Modify Probation (docket number 9). The Court denied Defendant's Motion, however, noting that he had been on probation for only seven months of the court-ordered two-year period. Citing 18 U.S.C. § 3564(c), the Court concluded that it was not in the "interest of justice" that Defendant's probation be terminated at that time. *See* Order Denying Motion to Terminate Probation (docket number 11).

On February 14, 2008, Defendant filed the instant Motion, again asking that his probation be terminated. Defendant alleges in his Motion that his probation officers have been contacted and do not object. The Motion is not supported by any letters from his

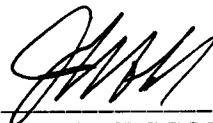
probation officers or other documentation, however, reflecting Defendant's performance while on probation.¹

The Court may, after considering the factors set forth in 18 U.S.C. § 3553(a), terminate a term of probation "if it is satisfied that such action is warranted by the conduct of the defendant and the interest of justice." *See* 18 U.S.C. § 3564(c). The Court is unable to determine on this record that early termination of probation would be "warranted by the conduct of the defendant." Given the lack of any verifiable information regarding Defendant's conduct while on probation, the Court is also unable to conclude that early termination of probation would be in "the interest of justice." Accordingly, the Court finds that the Motion should be denied.

ORDER

IT IS THEREFORE ORDERED that the second Motion to Terminate or Modify Probation (docket number 12) filed by the Defendant on February 14, 2008, is hereby **DENIED**.

DATED this 25th day of February, 2008.



JON STUART SCOLES
United States Magistrate Judge
NORTHERN DISTRICT OF IOWA

¹In denying Defendant's first Motion to Terminate Probation, the Court also noted that the Motion "is not supported by a letter or report from Defendant's probation officer, or other documentation establishing the allegations as set forth in the Motion." *See* Order Denying Motion to Terminate Probation (docket number 11) at 1 n.1.